

DEPARTMENT OF SOCIAL SERVICES

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December 9, 1986

ALL COUNTY LETTER NO. 86-125

TO: ALL COUNTY GAIN COORDINATORS
ALL COUNTY WELFARE DIRECTORS

SUBJECT: GAIN POLICY QUESTIONS AND ANSWERS

The purpose of this All County Letter is to answer many of the questions raised during the Greater Avenues for Independence (GAIN) regulations training that was conducted in August. This letter confirms many of the answers provided in the various training sessions and disseminates policy information on a statewide basis to ensure uniformity in the administration of GAIN.

These answers provide policy only as it applies to AFDC participants in GAIN. The answers do not necessarily apply to Refugee Cash Assistance or General Assistance participants in GAIN, should the county choose to serve those populations.

In addition to the questions that are answered here, there are still many issues which are yet to be resolved. We are currently analyzing those issues, and will be providing follow-up question and answer letters as policy decisions are reached.

Finally, questions regarding grant diversion and automatic registration have not been addressed in this letter, but will be handled in separate All County Letters.

We appreciate your patience and hope that this letter will be helpful. Any questions regarding this letter should be directed to the GAIN program analyst assigned to your county.

Carl B. Williams

CARL B. WILLIAMS
Deputy Director
Employment and Community
Services Division

Attachment

cc: CWDA

MPP 42-730.2 Job Services

1. Q. Does job club have to be for three weeks?
 - A. Participants who are required to participate in job club under the basic contract must attend for three weeks. Assignments to job club after the basic contract can be for any length of time. Counties have flexibility in the design of job clubs, but typically, a job club would consist of one week of a job search workshop, followed by two weeks of supervised job search.
2. Q. Under job club, can you have unsupervised job search after the workshop?
 - A. No. Under job club, the workshop must be followed by supervised job search.
3. Q. Can EDD provide job services such as job development?
 - A. Yes. The CWD may enter into an agreement with EDD to provide any or all job services described in MPP Section 42-730.2. However, EDD is not the presumptive deliverer of job services; CWDs may enter into contracts/agreements with other agencies to provide job services, or may deliver these services themselves. An All-County GAIN Coordinator's Letter dated April 29, 1986, relays EDD's policies on providing such services for GAIN.
4. Q. What is the difference between supervised job search and unsupervised job search? When would each occur?
 - A. Supervised job search is closely supervised by an employment counselor and involves access to job orders from EDD, phone banks to contact employers, and direct referrals to employers. Supervised job search could occur as a requirement under the basic contract either as a part of job club or alone. Supervised job search can also be provided after an assessment if it would be appropriate under the employment plan. Supervised job search is also one of the services that could be provided during the 90-day job search service period.

Unsupervised job search involves an independent search for work with progress reports made to the CWD (or authorized representative) on these efforts at least every two weeks. Unsupervised job search may be provided at any time during the program, but cannot be used when job club or supervised job search is required.

MPP 42-730.3 Training Services

5. Q. Can JTPA refuse to accept a GAIN participant?
 - A. JTPA cannot preclude GAIN participants from entering their training or education programs simply because they are GAIN participants. However, JTPA typically has skill level requirements that must be

met by all persons entering into JTPA programs. These specific requirements must be set forth in contracts/agreements between the CWD and JTPA. If a participant who did not meet the requirements specified in the contract is referred to JTPA, the referral would not be considered appropriate, and JTPA would have the right to refuse that participant.

6. Q. What criteria should be used to differentiate vocational training which takes place in a classroom setting from vocational education?

- A. Vocational training in a classroom setting is job specific training which would lead the participant to immediate employment. Participants in this type of vocational training usually receive a certificate upon completion of the program. Such vocational training programs are generally short term (less than two years), but some programs, such as secretarial or LVN programs may take longer. The length of the program should never be used as the sole factor to differentiate vocational training from vocational education.

Vocational education is defined as part of a broad educational experience in which the participant learns skills which assist in achieving longer range career aspirations. These programs generally are designed to take two to four years to complete. A participant receiving vocational education would typically receive an Associate or Bachelor degree upon completion of the program. Examples of vocational education include degree programs such as police science and accounting.

MPP 42-730.32 Preemployment Preparation [PREP]

7. Q. What could be acceptable criteria for determining an appropriate long-term PREP assignment?

- A. A long-term advanced PREP assignment must provide training that is consistent with the goals of the employment plan. The assignment must be in the occupational field identified in the employment plan and must be related to education or training which has been successfully completed under GAIN. A long-term basic PREP assignment could provide any type of training that will help a participant to develop acceptable work behavior skills, e.g., coming to work on time, following instructions, getting along with co-workers, etc.

8. Q. Can basic and advanced PREP be either short term or long term?

- A. Yes. There are four different combinations of PREP: short-term basic PREP; long-term basic PREP; short-term advanced PREP; and long-term advanced PREP.

9. Q. If a promotional opportunity is offered to full-time employees of the organization only, is it the intent of MPP Section 42-730.327 to allow PREP participants the opportunity to apply for that promotion?
- A. The regulations specify that PREP participants shall be allowed to compete for promotional opportunities for which their experience is a qualifying factor. If a promotional opportunity is available to persons with full-time experience only, PREP experience would probably not be considered qualifying, since PREP participation is limited to 32 hours per week.
10. Q. MPP Section 42-730.328 requires time worked in public agency PREP positions to be applied toward the participant's seniority in the merit public agency positions. Does this provision apply even if an existing union contract would not allow such a practice?
- A. Counties are not required to enforce the seniority rights of PREP participants for contracts that were in effect prior to the passage of the GAIN legislation on September 26, 1985. However, the terms of any contracts negotiated after the statute was enacted must include the provision for the granting of seniority rights to PREP participants in merit public agency positions.
11. Q. Would the participant in a long-term PREP assignment have the same benefits as a regular employee? For example, would a GAIN PREP assignee accrue vacation leave or sick leave, and if so, could they take this leave at the discretion of their PREP site supervisor, or would the CWD be responsible for approving this leave?
- A. Participants in PREP are not eligible for the accumulation of sick leave and vacation. Illness is good cause for nonparticipation. Otherwise, participants are expected to work the number of hours arrived at using the calculation of PREP hours described in MPP Section 42-730.323.
12. Q. What flow procedure has been established to make sure Case Managers will have sufficient information to make appropriate computations for PREP hours?

Will a change in PREP hours require a TIMELY notice to participants and can it be appealed?

- A. PREP hours will be computed at the same time as the grant is computed. Notification of a change in PREP hours should be sent at the same time that notification of a change in grant amount is sent. If different workers will be determining grant amounts and PREP hours, the CWD must ensure that its system design facilitates the flow of information among workers.

The notification of a change in PREP hours is not a Notice of Action because it does not affect the person's claim to benefits.

The notification of a change in PREP hours does not have to be timely, but realistically must allow time to accommodate necessary changes in a person's supportive services needs. As with any disagreement a participant has with program requirements, a participant who disagrees with the new PREP hours can file for a state hearing or formal grievance.

13. Q. Does the CWD need to complete a new participant contract when the PREP hours change?
- A. No. The CWD would notify the participant in writing of the change in hours, using a format similar to that in the participant contract to illustrate how the hours were derived. The participant contract contains a provision which says that the county will notify the participant whenever there is a change in PREP hours.
14. Q. What happens to PREP hours when the mid-month AFDC warrant is adjusted?
- A. The PREP hours would be adjusted accordingly and notification of the change in PREP hours would be sent at the same time as the grant change notice.
15. Q. Would a participant in a PREP assignment be required to work additional PREP hours if an underpayment adjustment was made for an underpayment which occurred prior to beginning the PREP assignment?
- A. No.
16. Q. Do you use current month food stamp allotment in the PREP calculation?
- A. Yes.
17. Q. Does the calculation of PREP hours include only current child support payments?
- A. Yes. Arrearage payments would not affect the calculation. Payments which are intended for future months would be applied as if they were collected in those months.
18. Q. Does the child support \$50 disregard enter into the PREP hour calculation?
- A. No. All of the current child support collected is subtracted when calculating the PREP hours.
19. Q. How is the FDD wage determined that is used for the PREP calculation?
- A. The FDD wage which is used in the PREP calculation is based on the statewide average of wages for all job orders placed with FDD

during the prior fiscal year. The statewide average is used rather than a local average to ensure statewide uniformity in the number of hours to be worked based on the PREP calculation. The wage will be updated each July. As of July 1, 1986, the wage is \$5.14 per hour. See All-County Letter (ACL) 86-101 dated October 17, 1986.

20. Q. What happens if a participant has good cause (e.g., illness) for not working the required number of PREP hours?
- A. The county would consider those hours as if they had been worked. The participant would not be required to make them up.
21. Q. How are PREP hours calculated and distributed when more than one person in the assistance unit is participating in PREP at the same time (e.g., there is a mandatory AFDC-U parent and the second parent volunteers)?
- A. The total hours of participation would be based on the PREP calculation for the assistance unit. The hours would be distributed between the persons who are working in a PREP assignment. The method of distributing the hours is up to the county and the participants. As a general rule, however, if one of the persons is a mandatory participant, and the other is a volunteer, the mandatory participant should work at least half of the total hours. Although the total number of PREP hours for the assistance unit can exceed 32 hours per week, neither participant can be required to work more than the maximum of 32 hours per week.
22. Q. If a participant is required to work 60 hours per month in PREP, can he work 30 hours per week for the first two weeks instead of 15 hours per week?
- A. Yes. The CWD can distribute the monthly PREP hours in any reasonable manner. However, the CWD should try to keep the work schedule as regular as possible.
23. Q. If an overpayment is due to client error or fraud, should the PREP hours be adjusted as described in MPP Section 42-730.324?
- A. Yes. The law and regulations provide only that if an overpayment occurred, and the participant worked more hours than would have been required if the overpayment had not occurred, the PREP hours shall be adjusted according to the amount of the overpayment recouped. No special provisions are made for overpayments as a result of client error or fraud.
24. Q. If an overpayment occurred prior to the person's PREP assignment, would the overpayment be waived when the person stopped working in the PREP assignment?

- A. No. Because a person's PREP hours are based on the current month's grant, an overpayment which occurred prior to the PREP assignment would have no impact on the number of PREP hours to be worked. Only the amount of an overpayment which was used to determine the participant's PREP hours would be waived.
25. Q. If a participant in long-term PREP changes to a new PREP assignment based on the outcome of the six-month review, would the unrecouped amount of an overpayment which occurred during the first PREP assignment be waived?
- A. No. A change in PREP assignments would not trigger the waiving of the overpayment. PREP activities must be terminated before the overpayment would be waived.
26. Q. Is a Food Stamp overpayment which affects PREP hours waived if it is not collected while the participant is in PREP?
- A. No. Only overpayments for AFDC grants are waived.

MPP 42-730.5 Education Services

27. Q. Is there a minimum number of hours a participant must meet in a community college?
- A. There are no minimum hours required for GAIN participants. However, if it is necessary to determine full-time versus part-time status, the school's normal standards for determining this would be used.
28. Q. Should participants go through a school's financial aid office to apply for loans or grants when attending school under GAIN?
- A. Participants should be encouraged to apply for financial assistance from other sources when attending school under GAIN. However, there is currently no authority to require it. If a participant does receive financial aid through other sources, GAIN funds would be used to cover or supplement services not provided by the other source.

MPP 42-730.54 Two-Year Limit on Education

29. Q. Do the time limits on educational programs refer to limits within a participant's lifetime or within an episode of GAIN registrant status?
- A. The two-year limit on self-initiated programs applies during the participant's lifetime. The two-year limit on educational programs resulting from an employment plan applies to the duration of that employment plan.

The two-year limit does not apply to remedial education (basic education, ESL, or instruction to obtain a GED) which is required under the basic contract.

30. Q. Is training resulting from an employment plan limited to two years?

A. No. The two-year limit on training programs only applies to self-initiated training programs under the basic contract. Training programs funded through grant diversion are limited to nine months.

31. Q. Would remedial education that is combined with training as a result of an employment plan be limited to two years?

A. Yes. Any remedial education program entered into as part of an employment plan would be limited to two years, whether or not it is combined with a training program.

MPP 42-740 through 42-742 Contracting for GAIN Services

32. Q. Will the State be providing a general format for performance-based contracts?

A. No. Because of the degree to which contracts for education or training services will vary among counties, SDSS will not be providing a general format. The GAIN Implementation Bureau and the SDSS Contracts Bureau will assist as requested by individual counties.

33. Q. Will SDSS be developing GAIN monitoring systems and forms for CWD use in the monitoring of GAIN contract service providers?

A. No. The CWD should provide for progress reports from the provider at designated intervals, noted in the contract/agreement.

34. Q. Are there any program components which the CWD cannot contract out? What are they?

A. Yes. They are the following: Participant contract activities; activities relating to eligibility determination, i.e., registration, conciliation, and imposition of money management or sanctions; and activities relating to granting, termination, or modification of aid payments.

35. Q. Is the reimbursement for assessments performance based when the CWD contracts for this service? If yes, what is the performance or task that is measured?

A. The assessment component of GAIN may be contracted out, but it does not require a fixed-unit-price performance-based contract. The CWD should follow normal CWD procedures for contracting.

36. Q. When the CWD is contracting out for GAIN job, training, or education services, what are the differences between performance criteria and payment criteria?
- A. Performance criteria is the criteria contained in MPP 42-740.1. All contracts/agreements for job, training, or education services must contain those performance criteria.
- The payment criteria is the criteria in MPP 42-740.2 which govern the payments for training and education services.
37. Q. Are contracts or agreements for the job services described in MPP Section 42-730.2 subject to competitive selection?
- A. No.
38. Q. Can benchmark payments be paid on fixed-unit-price performance-based contracts?
- A. No.
39. Q. If an adult education facility is at their ADA maximum and is funded for remedial education from GAIN funds, do performance-based contracts become an issue?
- A. Whenever GAIN funds are utilized, fixed-unit-price performance-based contracts must be used, as specified in MPP 42-740 through 42-742.
40. Q. Does remedial education require job placement before payment?
- A. No. The payment provisions for education services do not require job placement in order for payment to be made to the provider. Full payment for education services shall be paid when the participant successfully completes the education program. However, the educational facility would be required to provide job placement activities, such as maintaining a student employment center or a job bulletin board. Schools could also incorporate job placement activities into the remedial education program, such as teaching students to read the job opportunities section of the newspaper.
41. Q. If an OJT assignment is for 10 weeks, what payment is provided at the end of the 10-week period?
- A. If, at the end of the 10-week period, the participant is placed in unsubsidized employment, the provider would receive up to 70 percent of the fixed unit price. The remaining percentage would be paid during the 180-day retention period at 30-, 90-, and 180-day intervals.

If the participant is not placed in unsubsidized employment at the end of the 10-week assignment, no payment would be made.

42. Q. Are CWDs held to performance-based reimbursement for services they provide directly?
- A. Direct participant services delivered by a CWD are not required to be reimbursed based on performance-based payment criteria, as there is no contract.
43. Q. Would a service provider be reimbursed for training costs if a participant requested a change or reassignment as permitted by the regulations?
- A. This should be taken into account during the negotiation of the contract between the CWD and provider. There could be a provision for a pro rata share of the fixed unit cost to be paid to the provider as allowed in MPP 42-740.2(b). This would ensure payment to the provider in the event the participant requested a change.
44. Q. Will contracted service providers be required to report client nonparticipation?
- A. Yes. MPP 42-740.141 stipulates that the contract provide for reporting the participant's attendance and progress to the CWD at regular intervals. Contracts should also provide for prompt notification of nonparticipation.
45. Q. Will CWDs be entering into nonfinancial agreements with those agencies serving GAIN participants who are using their own resources?
- A. Yes. Those agreements must contain the criteria specified in MPP 42-740.1 and, where applicable, 42-742.1. They would not be subject to the payment criteria specified in MPP 42-740.2.

MPP 42-750.2 Supportive Services - Child Care

46. Q. Is child care available through GAIN for children 12 years or older if they are disabled?
- A. No. GAIN funds cannot be used for child care services for children who are 12 years or older. The county should investigate other sources of public funds which may be available for the care of older disabled children.
47. Q. Can the county use GAIN funds to pay child care for potential GAIN participants in a PIC/JTPA program when the county has not implemented GAIN?
- A. No. GAIN-funded services are available only to GAIN participants.
48. Q. What is the "usual" length of a temporary absence referred to in Sections 42-750.223(g) and 42-750.235? How many days will be allowed for such absences per month? What is the maximum?

- A. The CWD is expected to use judgment in determining whether payments should be made for temporary absences and for how long. Typically, providers have standard agreements concerning these absences. SDSS has not established maximums with regard to length and occurrence of these absences.
49. Q. When competing for SDF subsidized slots, do GAIN participants have priority over protective services referrals?
- A. Protective services children have first priority for these slots at all times.
50. Q. Under Section 42-750.23, can the mean market rate determination be split to reflect essential differences in rates based on types of facilities and types of care required, and geographic or economic differences in rates within a county?
- A. The mean market rate may be split to reflect these differences if it is done in accordance with the resource and referral agency's normal methodology.
51. Q. Does "GAIN Child Care Subsidies" in Section 42-750.25 mean the monies the CWD is paying to child care providers (or to participants so that they can pay providers) via normal supportive services, or is this something different? (Do we have such a mechanism for collecting fees? If so, what is it; how does it work?)
- A. The subsidies referred to in this section are the child care costs paid on behalf of GAIN participants. The fees referred to in this section of the regulations are those which are to be collected from a participant if his or her income is at least 50 percent of the state median income. The purpose of this requirement is to ensure that GAIN participants are subject to the same responsibilities as other parents with children in subsidized child care slots. The fee required is determined using the sliding scale chart established by the State Department of Education, which is available through Resource and Referral agencies.
- Counties are encouraged to use the existing alternative payment system for collecting these fees, but are free to establish their own systems if they wish. Participants would pay the fees through whatever system has been established or designated by the CWD to collect the fees.
52. Q. When the participant is required to pay a fee for child care based on the SDF family fee schedule, is this an out-of-pocket expense for the participant and/or the provider?
- A. Payment of this fee would result in an out-of-pocket expense for the participant, but not for the provider.

53. Q. What happens when a person's wage puts him/her off the chart for the sliding scale fee?
- A. The participant would pay a fee equal to the full cost of child care. GAIN continues to pay the provider for the cost of care, and the amount of the participant fee is deposited into the fund for the development of new child care resources within the community.
54. Q. Would paying a child care fee based on the sliding scale fee system only occur while a person is in the transitional child care period?
- A. No. It would occur whenever a GAIN participant's income exceeds 50 percent of the state median income. For example, a participant could receive excessive income in an OJT assignment which would require payment of these fees.

MPP 42-750.24 Transitional Child Care

55. Q. When does the three-month transitional child care period begin?
- A. For participants who go to work in unsubsidized employment, the three-month transitional child care period begins immediately upon the discontinuance of aid.
56. Q. Are participants eligible for three months of transitional child care when they enter unsubsidized employment and terminate AFDC dependency, regardless of their wage level?
- A. Yes.
57. Q. Is transitional child care payable when AFDC is discontinued for any reason other than unsubsidized employment?
- A. No.
58. Q. Can the three-month transitional child care period be extended for any reason?
- A. No.
59. Q. Are there any plans to lift the three-month transitional child care period limit?
- A. No.
60. Q. Are transportation costs paid during the transition period?
- A. No. The only supportive service available during the transition period is child care.

MPP 42-750.4 Supportive Services - Ancillary Expenses

61. Q. Is the \$450 limit for ancillary expenses limited to a particular time period?
- A. No.
62. Q. What kind of tracking is required to ensure that the \$450 limit on ancillary expenses is not exceeded?
- A. The CWD should keep normal accounting records to track the amount of ancillary expenses paid. The \$450 limit is a guide for CWDs to use in determining the amount of ancillary expenses. The CWD should try to stay within that limit when providing work or training related items. However, that limit can be exceeded when it is determined reasonable and necessary by the CWD.

MPP 42-750.5 Supportive Services - Personal Counseling

63. Q. Can GAIN pay for personal counseling?
- A. No. GAIN funds for personal counseling are limited to the county activities associated with the identification of the need for personal counseling and a referral to an appropriate provider. GAIN funds cannot be used to pay for the actual provision of personal counseling under any circumstances.

MPP 42-750.6 Advance Payments for Supportive Services

64. Q. When can advance payments for supportive services be made?
- A. Advance payments can be made whenever necessary and desired by the participant. The county should try to keep advance payments to a minimum by making direct payments to providers or using two-party checks whenever possible.

MPP 42-760 Registration

Note: Regulations requiring automatic registration became effective September 5, 1986. An All-County Letter will be released shortly to clarify the impact of automatic registration on GAIN policies and procedures.

MPP 42-761 Appraisal

65. Q. Will SDSS provide a client self-appraisal questionnaire or can each county develop its own?
- A. Each county may develop its own form, in accordance with the criteria in MPP 42-761.12, and subject to SDSS approval prior to use. The State will not be providing a mandatory form. As indicated in the All-County Welfare Directors/GAIN Coordinators letter dated

July 8, 1986, the GAIN Appraisal Form (GAIN 26), developed specifically for data collection, could be adapted by individual counties for use as a "self-appraisal" form, subject to SDSS approval before use.

66. Q. Can registrants receive supportive services while participating in appraisal activities?
- A. Yes.
67. Q. What is the reasoning behind requiring immediate referrals for all participants to resource and referral agencies, whether they need assistance with child care or not?
- A. The purpose of this requirement is to ensure that participants are eligible for any subsidized child care slots which become available during or after their participation in GAIN. Although a participant may not require child care services at the outset of GAIN participation, future training or employment may require paid child care.
68. Q. Do counties only have to refer the registrant to the resource and referral (R & R) agency or do they have to ensure that the registrant goes?
- A. The CWD is required to refer a GAIN registrant with children under age 12 to the local child care resource and referral agency. The CWD is also responsible for verifying that the participant has registered with the R & R agency. The CWD should establish a mechanism to accomplish this. For example, the CWD could furnish the necessary information directly to the R & R agency to accomplish the registration. Or, as part of the contract with the R & R agency, the CWD could require the R & R agency to send them monthly listings of GAIN registrants they have registered, and the CWD could match the list with the referrals they made. The CWD would then need to take appropriate actions to ensure that those who have not registered do so. This could involve additional contact with the registrants to remind them of the requirement to register with the R & R agency, or the direct furnishing of information to the R & R agency to accomplish the registration.
69. Q. When determining if a person has been off aid two or more times in the past three years due to employment, can the county accept the person's word?
- A. Yes. However, the county must make a reasonable attempt to verify the statements using information available in the case files. If the county doubts the veracity of the person's statements, additional verification should be requested.

MPP 42-761.161 Screening Tests

70. Q. How will counties be receiving the screening tests?
- A. Counties will receive their supply of screening test materials approximately two weeks to one month prior to implementation of GAIN. The screening test material will either be hand-carried to CWDs when the CWD is trained in the administration of the tests or they will be mailed to CWDs from the printer.
71. Q. What does GED refer to in terms of a level of education?
- A. GED is an acronym for General Educational Development. The GED certificate is the equivalent of a high school diploma.
72. Q. What is the maximum length of time a person can remain in an education component for ESL, Remediation, or GED when participation is required as part of the basic contract?
- A. There is no time limit on this activity if the participant is referred to remedial education under the basic contract. (If the remedial education is self-initiated or is required as part of the employment plan, it is limited to two years.) The appraisal test scores indicate the level of remediation necessary and the approximate time frames to achieve that level. The levels and time frames are explained in ACL 86-82, dated August 26, 1986.
73. Q. How do we test non-English-speaking recipients for remedial education?
- A. Counties will refer non-English speaking participants to an ESL provider for testing and appropriate ESL instruction.
74. Q. Why are high school graduates required to take the screening tests?
- A. High school graduates are tested to determine whether or not they have basic literacy skills and English language skills. The law requires those who lack basic literacy or English language skills to receive instruction to obtain those skills.
75. Q. Will university or community college students in a self-initiated educational program be required to take the CASAS test?
- A. No. However, if participants do not successfully complete the approved self-initiated training or education program, they would be tested and referred for appropriate education according to guidelines in ACL 86-82.

Persons who successfully complete their approved self-initiated program, (or who reach the two-year limit of self-initiated programs) would not be tested before continuing on with the GAIN program. However, if at the time the participant reaches the

assessment component of GAIN, a need for remedial education is indicated, the appropriate remedial education program would be required as part of the employment plan.

76. Q. What happens to persons who score below 200 on the screening test?

A. The screening test developed for GAIN does not accurately measure competency levels below 200. Those who score below 200 must be referred to educational providers who will conduct further diagnostic testing.

Based on the results of this additional testing, the education service provider would determine if the participant would benefit from education, and if so, recommend an appropriate education program for the participant. Participation in this program would be reflected in the basic contract. Severely learning disabled individuals may qualify for exemption from GAIN participation.

77. Q. Will GAIN pay for the further diagnostic study needed based on the results of the screening tests?

A. Yes. This should be included in the contracts/agreements between the CWD and education service providers.

78. Q. How does the county determine who should be referred for instruction to obtain a GED versus those who should be referred for basic remedial education?

A. The CWD or contracted provider will administer the screening test and make referrals based on the scores attained, according to guidelines provided by SDSS. Only persons who lack a high school diploma or equivalent and score between 215 and 225 will be referred to GED preparation. Persons who score between 200 and 214 will be referred to remedial education to attain their basic skills. (See ACL 86-82.)

79. Q. What type of post-testing will be done to determine if participants have met their remedial education goals?

A. CWDs should work closely with their local education providers to determine what types of post-testing instruments are available in the school district that will indicate a level of competency achieved. These tests should be compatible with the type of scoring used on the initial screening tests.

In addition, SDSS is working with the State Department of Education to determine additional appropriate post-testing instruments that could be used.

MPP 42-761.3 Deferrals

80. Q. Will GAIN supportive services be paid while a person is in a deferred status?

- A. No. GAIN services cannot be paid when a person is not participating in GAIN due to a deferral.
81. Q. Can the CWD require a person to accept services which would help him or her overcome a deferral situation?
- A. No. The county can only offer referrals to appropriate services to a person, but cannot require that the person take advantage of those services. For example, the county can refer a person who is deferred due to a dependence on alcohol to Alcoholics Anonymous, but cannot require the person to attend.
82. Q. Does the deferral for persons who work 15 hours per week apply to principal wage earners?
- A. Yes. All of the deferral criteria apply to anyone who is required to register for GAIN.
83. Q. What is the maximum length of time a person can be temporarily laid off with a definite call-back date and still be deferred? Suppose there is no definite call-back date, but a participant's work history shows that he/she has always returned to work. An example would be field workers who might return to work "in the spring". Would this be an appropriate deferral?
- A. The example given is not an appropriate deferral because there is no definite call-back date. Each participant's individual deferral situation should be reviewed by the CWD and a determination made as to what is reasonable in relation to the call-back date. Based on the individual's AFDC and work history record, he/she could be assigned to job club/job search components prior to the call-back date, and perhaps obtain nonseasonal employment.
84. Q. What is the status of a person who meets a deferral criteria but wants to participate?
- A. Such a person would become a mandatory participant because the situation does not preclude participation. (See Question #113.)
85. Q. If a client is deferred from GAIN according to regulations (e.g., a mother who is in school full time and has a child under six), can she choose not to be deferred in order to get support services paid?
- A. Yes. However, self-initiated education and training plans must reasonably be expected to lead to unsubsidized employment, or the participant would not be allowed to continue that program in GAIN. A participant who meets a deferral criterion but chooses to participate would be considered a mandatory participant.
86. Q. Will there be a participant contract written up before deferral?

- A. No, unless the reason for deferral occurred after a contract had been written. When the deferral situation no longer exists, the registrant would be required to enter into an appropriate contract with the CWD.
87. Q. What type of tracking system should be used for deferrals?
- A. The participant's situation must be reviewed periodically based on the projected length of time of the deferral, but no less often than every six months.

MPP 42-771 Participant Contracts

88. Q. Must the CWD perform all of the activities associated with the participant contract?
- A. Yes. None of the activities associated with the review or completion of the participant contract may be contracted out.
89. Q. What identification number is used on the contracts? Would it be the participant's Social Security number?
- A. CWDs may use any number they wish as the contract identification number, but must ensure that each individual has a different number. CWDs should use the same number for all GAIN forms relating to the person.
90. Q. Does the CWD have to go over the participant contract line by line with the participant?
- A. The CWD must review the contract with the participant and explain all of the provisions. The CWD must allow the participant to read the contract himself or herself if the participant is capable. The CWD may paraphrase the provisions and must answer any questions the participant has.
91. Q. Since Section 42-730.122 was deleted in the revised regulations, if a component is not available, or if a participant's assigned component activity is not available, what happens?
- A. The requirement for the participant to receive job search services when the assigned training or education component is not available is still in effect. Section 42-730.122 of the initial regulations was deleted because it duplicated similar provisions at Section 42-771.41 and .42 and Section 42-774.121(d).
92. Q. Are the job search services referred to in MPP 42-771.42 supervised job search, or 90-day unsupervised job search, or both?
- A. The job search services the participant receives while waiting for the assigned education or training to become available may consist of any of the job search services described under Section 42-730.2 and would be determined based on the individual's needs.

MPP 42-772.4 Self-Initiated Programs

93. Q. Could an individual participating in job club/job search quit and enter a self-initiated educational or training program? Could they sign up for a self-initiated program after job club/job search and prior to assessment?
- A. No. A participant would have to be enrolled in an approved self-initiated program prior to entering into the first basic contract, which would precede any GAIN participation.
94. Q. Does a participant have to be able to complete a self-initiated program within the two-year time limit in order for it to be approved?
- A. No. However, GAIN funding for any costs associated with the program, including supportive services, would be limited to two years. Participants would be required to continue on with subsequent GAIN components, and would be subject to sanctions if they failed to do so without good cause.
95. Q. When applying the two-year limit to a self-initiated educational program, do you count time completed in school before entering GAIN?
- A. No. The two-year limit applies to participation under GAIN.
96. Q. When participants complete a self-initiated educational or training program under the basic contract, do they go immediately to 90 days of job search services?
- A. No. Once a person either reaches the two-year limit or stops participating in the self-initiated program, he or she would either attend the three weeks of job club or supervised job search or go to an assessment, if these requirements had not already been completed. If these requirements had been completed, the person would continue on with the next appropriate program component.
97. Q. Can GAIN supportive services continue after the participant has completed a self-initiated program?
- A. Yes. Once the participant completes the self-initiated program, he or she is required to participate in the remaining components of GAIN, and is eligible to receive supportive services associated with continued participation.
98. Q. Is there a two-year limit on self-initiated training programs?
- A. Yes. The two-year limit applies to all self-initiated programs, whether vocational training or education.

MPP 42-772.5 Remedial Education

99. Q. If a participant opts NOT to enter an educational component, even though test results indicate a definite need, are there penalties, or does the participant have the right to refuse participation in an educational component?
- A. Participants cannot refuse to participate in education when there is a need for it. Such a refusal could result in sanctions. A participant may briefly delay education while participating in job club, job search or the assessment.
100. Q. What can be done if a non-English-speaking person chooses to participate in job club first in order to delay instruction in English as a second language?
- A. The county must try to counsel the participant to choose the sequence that will be the most beneficial to the participant. However, the final decision rests with the participant. The supervised job search period may be shortened by the county if continued participation would be unreasonable in helping the participant to obtain employment.

MPP 42-773 Employment Plan Development

101. Q. In addition to the participant contracts there is a need for an employment development plan. Has the state developed a form for this?
- A. SDSS is in the process of developing a sample employment plan form which may be used by counties. This form would not be considered mandatory.
102. Q. How can counties get a supply of third party assessment forms?
- A. CWDs should use the standard forms ordering process. The form number is GAIN 32.
103. Q. Is the third-party assessment decision final?
- A. Yes. The third-party assessment is binding upon the CWD and the participant. However, if the participant is not satisfied, he or she has the right to file for a state hearing.

MPP 42-774 Amended Contract Requirements

104. Q. In the contract amendment following the assessment, could the participant be referred back to job club? Must everyone go into training (does "training" here include short-term PREP perhaps?)

- A. After an assessment and the development of an employment plan, a participant could be referred to any combination of services, including job services, training services, or education services. Based on the results of the assessment and employment plan, a referral to job club may be appropriate. However, a referral to a job service cannot be made to the exclusion of a training or education service. Therefore, the contract amendment based on the results of the employment plan must contain a referral to education or training. An assignment to a short-term basic or short-term advanced PREP assignment could be appropriate training depending on the employment plan.
105. Q. Can participants be enrolled in more than one activity; i.e., part-time skills training and short-term PREP?
- A. Yes. Employment plans may call for involvement in more than one activity at a time if it is determined necessary and/or beneficial for the participant. The combined amount of time required for GAIN activities cannot exceed 40 hours per week.
106. Q. Does SDSS plan to establish limits on the amount of time an individual who has successfully completed a training/education program may remain unemployed prior to being referred to job search activity under MPP 42-774.2 or is this an area of local control?
- A. When a participant successfully completes a training/education program and does not obtain employment upon completion, he/she is referred immediately to the 90 day job search service period.
107. Q. When determining the job services to be offered during the 90-day job search service period, what happens if a participant does not want to do something he/she already has done, e.g., job club?
- A. The CWD and the participant should develop a plan based on the individual's needs. This plan can be a combination of any of the job services listed in MPP Section 42-730.2, and need not be exactly like any of the components the participant has previously completed. However, repetition of a component is not precluded if it is clearly the most appropriate assignment.
108. Q. Does a participant have to go through more training before being put in a long-term advanced PREP assignment even if he/she has already received training through another program?
- A. Yes. Before a person can be assigned to an initial long-term advanced PREP assignment, he or she must have participated in an education or training program under GAIN. (See Question #7.) If a participant has completed a long-term advanced PREP assignment, and remains unemployed, he or she could be reassigned to long-term advanced PREP if a review of the employment plan indicated such an assignment would be appropriate.

109. Q. Is an assessment required to determine an appropriate long-term advanced PREP assignment following the 90-day job search period?
- A. No. The county should ensure that the PREP assignment is consistent with the goals of the employment plan. No assessment is done at this point. An advanced PREP assignment must provide training related to the training already received under GAIN.
110. Q. Who conducts the review of a PREP assignment after six months?
- A. The CWD can determine who reviews the long-term PREP assignment at the six-month interval. The only requirement is that it be done by someone who can review the employment plan and make a determination regarding the appropriateness of the assignment.
111. Q. After the review of long-term PREP, can only advanced PREP participants be placed in another component and ONLY if a suitable PREP placement is not available?
- A. No. MPP Section 42-774.422 allows a participant in basic PREP to be placed in another component when the participant has displayed consistent progress and developed acceptable work behavior skills. A participant in advanced PREP would be assigned to a different component only when another suitable advanced PREP assignment was not available.
112. Q. What happens when a person completes one year of PREP?
- A. When a person completes one year of long-term PREP, a qualified assessor must review the employment plan and determine if any revisions to the plan are necessary for the person to reach the goal of unsubsidized employment. The assessor would perform additional assessment activities when warranted. It is expected that in most cases, the additional assessment activities would not need to be as comprehensive as the first assessment.

Based on the review of the employment plan, and any necessary revisions to the plan, the participant would be assigned to appropriate job, training, or education services. An amended contract would reflect the new assignment(s).

MPP 42-781 Cause Determinations/Conciliation

113. Q. Why is it necessary to tell the participant on the appointment notice what reasons are acceptable for noncompliance?
- A. Section 5302 of the Unemployment Insurance Code requires that the notice which is used to inform the participant that a participation problem exists also contain a description of what could constitute good cause.

114. Q. Would persons who choose to participate even though they meet a deferral criteria be subject to sanctions if they fail to participate?

A. Yes. However, it is likely that if the reason for nonparticipation was related to the deferral criteria, there would be good cause, and no sanctions would be applied (e.g., a person with legal problems chooses to participate, but court appearances interfere with participation). On the other hand, if the reason was not one that provided good cause (e.g., the person went on vacation), the person would be sanctioned as a mandatory participant if conciliation efforts were unsuccessful.

MPP 42-784 Net Loss of Income

115. Q. When do the Net Loss of Income provisions at MPP 42-784 apply?

A. Net Loss of Income is only considered good cause for a job refusal before the participant has received an assessment and developed an employment plan. Under all contract amendments following the assessment, the participant agrees to accept a job that is consistent with the employment plan.

116. Q. Regarding this section of the GAIN regulations, "Method of Determining Net Loss of Income for GAIN Good Cause Criteria", does Section 42-784.2 mean:

- a. If a client agrees by signing an amended contract to train for a specific job skill; and
- b. The client is made aware in the contract of the average wage for that job in the current labor market; and
- c. The participant is given and completes the agreed upon job skills training; and
- d. The participant is given the supportive services needed; and
- e. A job offer is made to the participant in the skill area trained for and at the current average wage; then,

Net loss of income as good cause does not apply?

A. Yes. However, it should be noted that in step (b) above, the average wage would not be documented in the contract, but would be discussed in the development of the employment plan.

MPP 42-785 Money Management

117. Q. If a participant does not cooperate in appraisal activities without good cause, and he/she goes through informal and formal conciliation before aid is approved, would it be possible that once aid was approved, the first aid payment would be made through money management?

- A. Yes. Because appraisal activities must be performed in order to determine the requirements of the basic contract, a failure to cooperate with those activities would be considered a failure or refusal to enter into a basic contract. If the person does not have good cause, and informal and formal conciliation efforts are unsuccessful, the first and subsequent aid payments could be made through money management.

MPP 42-786 Sanctions

118. Q. Will a person who fails to cooperate with job club be subject to sanctions?
- A. Yes.
119. Q. What happens if a volunteer is under a sanction which precludes participation in GAIN for a six-month period, but loses exempt status during that six-month period?
- A. A person in this situation becomes a mandatory registrant, and the sanction imposed under the volunteer status becomes moot. If the person continued to fail or refuse to meet program requirements without good cause, sanctions as a mandatory participant would ultimately be imposed.
120. Q. In an AFDC-U case, does a sanction continue to be applied to the assistance unit if the sanctioned principal earner leaves the home?
- A. No. When the sanctioned principal earner parent leaves the home, the rest of the assistance unit goes back on aid based on deprivation due to absence, if otherwise eligible. Should the principal earner return during the specified sanction period (e.g., returns in July if the sanction period was June, July, and August), the sanction would be reapplied to the entire assistance unit for the remainder of the sanction period.

MPP 42-787 State Hearings and Formal Grievances

121. Q. When would someone choose the Board of Supervisors' formal grievance procedure over the UI Code formal grievance procedure?
- A. A participant is free to choose between the grievance procedures set by the UI Code or the County Board of Supervisors, with the following exception: When the participant is refusing or failing to cooperate with GAIN requirements, and has gone through or is going through formal conciliation, the UI Code procedure is not available to him/her as a grievance procedure. This is because the UI Code grievance procedure is the same as the formal conciliation process used when a participant has failed or refused to cooperate.
122. Q. Who actually conducts a formal grievance under the UI Code?
- A. The CWD, not EDD, is responsible for conducting the formal grievance using Section 5302 of the UI Code as a model.

123. Q. When a GAIN participant files a formal grievance, is he/she required to participate in GAIN until the issue is settled?
- A. Yes, the person is still required to participate. However, if the person stops participating, the grievance procedure would continue. In addition, the CWD would go through the cause determination, conciliation, money management and sanction procedures, if necessary.
124. Q. If a person is discontinued from aid for a reason other than a GAIN participation problem, and a timely appeal is filed, can the person continue to participate in GAIN and receive supportive services pending the outcome of the hearing?
- A. Yes. A person is considered eligible for GAIN while receiving aid paid pending the outcome of the appeal.